

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

SMIDTH & CO.,

Debtor.

Chapter 11

Bankruptcy Case No. 08-10516 (KG)

District Court Misc. Docket No.:

1:08-mc-00088-GMS

**NOTICE OF WITHDRAWAL OF DEBTOR'S MOTION TO TRANSFER  
PENDING LITIGATION INVOLVING PERSONAL INJURY CLAIMS  
PURSUANT TO 28 U.S.C. § 157(b)(5)**

**PLEASE TAKE NOTICE** that on April 25, 2008, Smidth & Co. (the "Debtor") filed a Motion To Transfer Pending Litigation Involving Personal Injury Claims Pursuant To 28 U.S.C. § 157(b)(5) (the "Motion") [D.I. 1]. Pursuant to the Motion, the Debtor sought to transfer the venue of the following two actions pending in the Superior Court of California (the "California Court"): *Bernard Smith and Alberta Smith v. Allis Chalmers Corporation Product Liability Trust, et al.*, Case No. BC374045 (the "Smith Action") and *Richard Dyhrman and Patricia Dyhrman v. A.W. Chesterton Company, et al.*, Case No. RG07 355398 (the "Dyhrman Action").

**PLEASE TAKE FURTHER NOTICE** that on May 6, 2008, the plaintiffs in the Dyhrman Action agreed to dismiss the complaint with prejudice as to the Debtor and agreed not to assert a claim in the Debtor's pending chapter 11 bankruptcy proceeding. On May 7, 2008, the plaintiffs in the Dyhrman Action caused a notice of dismissal with prejudice to be filed with the California Court. On May 9, 2008, the Debtor filed in this Court a Notice of Partial Withdrawal of the Motion solely as to the Dyhrman Action [D.I. 4].

**PLEASE TAKE FURTHER NOTICE** that on May 16, 2008, the plaintiff in the Smith Action agreed to dismiss the complaint with prejudice as to the Debtor and agreed

not to assert a claim in the Debtor's pending chapter 11 bankruptcy proceeding. On May 19, 2008, the plaintiff in the Smith Action caused a notice of dismissal with prejudice to be filed with the California Court.

**PLEASE TAKE FURTHER NOTICE**, that as a result of the dismissal with prejudice of both the Dyhrman Action and the Smith Action as to the Debtor, and the related agreements by the plaintiffs in such actions not to assert a claim in the Debtor's pending chapter 11 bankruptcy proceeding, the Debtor hereby withdraws the Motion in its entirety.

Dated: May 21, 2008  
Wilmington, Delaware

**CROSS & SIMON, LLC**

/s/ Christopher P. Simon

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*Co-Counsel to Smidth & Co.*

**CERTIFICATE OF SERVICE**

I, Christopher P. Simon, hereby certify that on this 21st day of May, 2008, I caused copies of the *Notice of Withdrawal of Debtor's Motion to Transfer Pending Litigation Involving Personal Injury Claims Pursuant to 28 U.S.C. § 157(b)(5)* to be served on the parties on the attached list by U.S. Mail or otherwise indicated.

/s/ Christopher P. Simon

Christopher P. Simon (No. 3697)

**VIA HAND DELIVERY**

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